Supreme Court, U.S.
FILED

No. 09-838

1 / 2009

In the Supreme Court of the United States

William K. Suter, Clerk

Lucy Fothergill,

Cruz Teresa Del Toro Piñeiro,

Petitioners,

v.

United States

[United States Postal Service],

Respondent.

Petition for a Writ of Certiorari to the United States Court of Appeals for the First Circuit

---

PETITION FOR A WRIT OF CERTIORARI

Luis M. Chaves Ghigliotty
Attorney for Petitioners
23 Ruiz Belvis
P.O. Box 630 Cabo Rojo, P.R. 00623-0630
Tel: (787)255-6874
Fax: (787)851-0788
E-mail: *lmchaves@prtc.net*
Counsel for Petitioners

QUESTIONS PRESENTED

1. Whether poor judgment in placing parking spaces in front entrance to postal station which resulted in auto accident that caused injury to two post office patrons transacting business inside station is or not the kind of choice or judgment which discretionary function exception to FTCA designed to shield.

2. Whether the government waiver of immunity for injuries resulting from auto accidents in which Postal System is at fault excludes application of discretionary function exception.

3. Whether an adequate allegation of auto accident in which Postal System is at fault mandates trial on the merits under FTCA.

TABLE OF CONTENTS

QUESTIONS PRESENTED.....i

TABLE OF AUTHORITIES.....viii-ix

PETITION FOR WRIT OF CERTIORARI

I. OPINIONS BELOW.....1

II. JURISDICTION.....2

III. STATEMENT.....3

A. Complaints.....2

1. Injuries Resulting From Auto Accident Inside Postal Station.....2-3

2. USPS Negligent For Lacking Means to Protect Inside From Cars Maneuvering In Parking Area.....3-4

B. Motion to Dismiss.....4

1. Confirms Accident Inside Postal Station, Injuries, Denies Liability...4-6

2. Defendant Characterizes Plaintiff's Charge of Negligence.....6

C. District Court Decisions.....7

1. Del Toro - Lack of Subject Matter Jurisdiction.....7-8

2. Fothergill - Lack of Subject Matter Jurisdiction.....8-9

3. Motions Under Rule 59(e).....9-10

D. UNDULY GENEROUS INTERPRETATIONS OF EXEMPTIONS RUN RISK OF DEFEATING CENTRAL PURPOSE OF FTCA.....11-12

E. FTCA WAIVES IMMUNITY FROM LIABILITY FOR INJURIES FROM AUTO ACCIDENTS WHEN POSTAL SYSTEM EMPLOYEES ARE AT FAULT.....12-14

F. DISCRETIONARY FUNCTION EXCEPTION.....14

G. SUBJECT MATTER JURISDICTION.....15

H. REVIEW OF FIRST CIRCUIT COURT OF APPEALS DECISION.....16

1. APPELLANTS ARGUMENT.....16-17

2. USPS ARGUMENT.....17-18

3. FIRST CIRCUIT DECISION.....18-21

I. REASONS FOR GRANTING PETITION.....22

1. Poor judgment in placing parking spaces in front of front entrance to postal station which resulted in auto accident that caused injury to two post office customers is not kind of choice or judgment which discretionary function exception to FTCA was designed to shield.

2. The government's waiver of immunity for injuries resulting from auto accidents in which Postal System is at fault excludes application of discretionary function exception at initial or pleading phase of litigation.

3. A feckless standard for choice or judgment, will lead to the defeat of the central purpose of FTCA, which is to waive Government immunity from suit in sweeping language.

4. Whether allegation of auto accident in which postal system is at fault mandates a trial on the merits.

J. CONCLUSION.....23

CERTIFICATE OF COMPLIANCE

APPENDIX

TABLE OF CONTENTS TO APPENDIX

TABLE OF AUTHORITIES

FEDERAL COURT CASES

Albright v. Oliver, 510 U. S. 266, 268,
14 S. Ct. 807, 810, 127 L. Ed. 2d (1994).....16

Bender v. Williams Area School District,
475 U. S. 534, 541 (1986).....15

Berkovitz v. United States, 486 U. S. 531 (1988)....7,19-20

Cope v. Scott, 45 F. 3d at 445, 448 (1997).....19-21

Dolan v. Postal Service, 546 U. S.
481, 484 (2006).....11-13

Filetech, S.A. v. France Telecom, S.A.,
157 F.3d 922, 930 (2d Cir. 1998).....15

Gambale v. Deutsche, AG, 377 F.
3d 133, 139 (2d Cir. 2004).....15

Gaubert v. U. S., 499 U. S. 315 (1991).....7,20

Hover v. Ronwin, 466 U. S. 558, 587, 104 S. Ct. 1989,
2005, 80 L. Ed. 2d 590 (1984).....16

Kosak v. United States, 465 U. S. 848, 853, n.9.....12-13

Lane v. Pena, Sec. of Transportation,
518 U. S. 187, 192 (1996).....12

Postal Service v. Flamingo Industries
(USA) Ltd, 540 U. S. 736, 741(2004).....11

Raila v. United States, 2d Circuit Dkt. No. 03-6057,
January 14, 2004, slip. op. at 7.....13

United States v. Yellow Cab Co., 340 U. S.
543, 548 n.5 (1951).....12

Unites States v. Olson, 546 U. S. 4(2005).....11

Varig, 467 U. S. at 813, 104 S. Ct. at 2764.....20

FEDERAL STATUTES, REGULATION, RULES

28 U. S. C. §1254(i).....2

28 U. S. C. § 1291.....2

28 U. S. C. § 1346(b).....2,11

28 U. S. C. § § 2679 and 1346.....14

28 U. S. C. § 2680(a).....12,14,16

39 U. S. C. § 409 (c).....11

RULES

F. R. Civ. P. 12(b)(1).....4

Rule 12(b)(1).....14

Rule 59(e), F. R. Civ. P..... 9

LEGISLATIVE HISTORY

H. R. Rep. No. 77-2245, at 10 (1942).....13

SUPREME COURT OF THE UNITED STATES

OCTOBER 2009 TERM

PETITION FOR WRIT OF CERTIORARI

Petitioners Lucy Fothergill and Cruz Teresa Del Toro respectfully petition for a writ of certiorari to review the judgment of the United States Court of Appeals for the First Circuit.

I. OPINIONS BELOW

The Opinion and Judgment of the First Circuit Court of Appeals, decided on May 21, 2009, affirming the judgments of dismissal of the District Court for the District of Puerto Rico in Fothergill v. United States (United States Postal Service), Civil No. 07-1378 (JP), D. E. 6 of December 26, 2007, and in Del Toro v. United States (United States Postal Service), Civil No. 07-1304 (SEC), D. E. 20 of May 7, 2008, which cases had been consolidated for appeal since they present the same central issue.

II. JURISDICTION

Jurisdiction of the United States District Court for the District of Puerto Rico was based upon 28 U. S. C. § 1346(b) in both the Fothergill and Del Toro civil actions. Jurisdiction in the First Circuit Court of Appeals was based on 28 U. S. C. § 1291. This Court has jurisdiction under 28 U. S. C. § 1254(i).

III. STATEMENT

A. Complaints

1. Injuries Resulting From Auto Accident Inside Postal Station

Both Plaintiffs Fothergill and Del Toro were on April 25, 2005 engaged in the retrieval of correspondence from their respective mailboxes at the United States Postal Station (USPS) in Boqueron, Puerto Rico 00622 when a vehicle breached the premises through the main entrance doors.

Ms. Del Toro was struck by the vehicle, which impact threw her to the floor and she was pinned under the vehicle. She suffered multiple injuries, numerous lacerations, surgery, continuing treatment and therapy, all involving pain and psychological stress and discomfort.

Ms. Fothergill suffered multiple cuts and lacerations for which she was taken by ambulance to the hospital for medication and treatment. All involving pain and psychological stress and discomfort.

2. USPS Negligent For Lacking Means to Protect Inside From Cars Maneuvering In Parking Area

Both plaintiffs submit that USPS has a responsibility to its customers and visitors to provide security and safety and was negligent for lacking the most elemental means to protect the areas inside its facility used by the public to transact their business with USPS from intrusion and injury by the vehicles which maneuver in the immediate parking area.

See Del Toro Complaint, 07-Civ-1304, D. E. 4, 4/11/07, ¶ ¶ 2, 3 & 4; Fothergill Complaint 07-Civ-1378, 5/2/2007, ¶ ¶ 2, 3 & 4.

Each plaintiff presented administrative claim to USPS, which on October 12, 2007 denied each respective claim.

B. Motion to Dismiss

1. Confirms Accident Inside Postal Station, Injuries, Denies Liability

The government did not answer the complaint but, under F. R. Civ. P. 12(b)(1) moved to dismiss for lack of subject matter jurisdiction, urging that the United States is immune from suit because the discretionary function exception applies.

The government proffered the following facts:

That on April 25, 2005 Mrs. Fothergill and Mrs. Del Toro were retrieving their mail near the main entrance of the post office when a motor vehicle crashed into the building and struck them.

That according to the investigation of the USPS, the vehicle involved in the accident was a 1997 Ford Escort automobile owned and operated by a private individual, Maria T. Montalvo Valle (not a party to this action).

That when the car crashed through the front doors, Plaintiff [Fothergill was] hit by it, causing her to hit her head on the P. O. boxes and the fall onto sharp shattered glass that was on the floor. Two other patrons were also injured during the incident.

That when Plaintiff [Del Toro] was struck by the car she was pinned underneath it.

That a postal employee, Jorge Mendez Nazario, stated he heard a loud acceleration followed by a crash and upon arriving at the scene, he observed two women lying on the floor and a man stuck between the door and the vehicle.

That the USPS investigation further revealed the existence of cement barriers in the parking spaces were marked and well defined. The driver of the vehicle, Ms. Montalvo, told an investigating police officer that she confused the brake pedal with the accelerator when attempting to park.

See, Motion to Dismiss Complaint, in Fothergill case 07-Civ-1378, D. E. 5, pgs. 1 & 2, Factual Summary; In Del Toro case, 07-Civ.-1304, D. E. 13, pgs. 1 & 2, Factual Summary.

2. Defendant Characterizes Plaintiff's Charge of Negligence

In its motion to dismiss defendant characterizes plaintiffs allegation of USPS negligence as follows:

> "In essence, Plaintiff is alleging Defendant negligently designed the parking facilities and markings, as well as the entrance, at the post office in Boqueron, Puerto Rico. Plaintiff's Complaint implies that her injuries could have been avoided if USPS had placed some sort of barrier in front of the building's entrance or placed the parking spaces differently."

C. District Court Decisons

1. Del Toro - Lack of Subject Matter Jurisdiction

The district court in the case of Cruz Teresa Del Toro, 07-Civ.-1304, D. E. 20, 5/7/2008 agreed with both the defendant's characterization of the negligence alleged, and the applicability of the exception under § 2680(a):

> "Therefore, if the alleged negligent act - in this case, the USPS failure to maintain security rails to prevent the entry of vehicles in the mailbox area - can be catalogued as a discretionary function, then the Court lacks jurisdiction to entertain the tort action against the U. S." *Gaubert* v. *U. S.*, 499 U. S. 315 (1991) and Berkovitz by *Berkovitz* v. *U. S.*, 486 U. S. 531 (1988).
>
> "We find that the USPS' decision involved social, economic and policy consideration. Because Plaintiff has not averred, much less established that the barriers were required by any law, or internal policy, and having concluded that the determination involves an element of judgment or choice, the discretionary function exception applies in full force."

On that basis the district court granted dismissal of Plaintiff Del Toro's claim under FTCA.

> "In essence, Plaintiff is alleging Defendant negligently designed the parking facilities and markings, as well as the entrance, at the post office in Boqueron, Puerto Rico. Plaintiff's Complaint implies that her injuries could have been avoided if USPS had placed some sort of barrier in front of the building's entrance or placed the parking spaces differently." (Emphasis supplied). Motion to Dismiss, D. E. 13, pg. 6.

See, Addendum, pgs. 1-4

2. Fothergill - Lack of Subject Matter Jurisdiction

The district court in the case of Lucy Fothergill, 07 -Civ.-1378, D. E.6, 26 Dec. 07, likewise posed to itself the question to determine whether the discretionary function exception applied, as follows:

> In considering whether the decision to install barriers in front of the Boqueron Postal facility is a matter of choice, the Court notes first that Plaintiff Fothergill has cited to no mandatory rule or policy requiring barriers between the parking lot and the postal office entrance. Plaintiff has produced no evidence showing that Defendant USA lacked the discretion to determine safety measures at the postal office. Thus, there was no existing obligation on behalf of Defendant to install barriers to the front entrance.

See, Addendum, pgs. 5-9

Again, the fact proffered by the government, not the Plaintiff, that what the Complaint alleges is that had barriers been placed in between the parking lot and the postal office entrance the calamity would have been avoided is the fact basis for analysis whether the discretionary function exception applies.

3. Motions Under Rule 59(e)

Mrs. Fothergill and Ms. Del Toro both moved for reconsideration under Rule 59(e), F. R. Civ. P., Docket #8, 1/6/2008 and Docket#23, 5/16/2008, respectively, citing:

1. That the Court herein has not the facts as a result of discovery;
2. That in motion to dismiss the facts are con sidered in light most favorable to plaintiff;
3. That State Tort Law applies to actions under FTCA;

4. That whether the Act applies or the § 2680(a) exception does is a mixed question of law and fact and defendant has not placed in record facts necessary to dismiss; In the Del Toro Motion under Rule 59(e), plaintiff in addition raised the following issues:

5. That, for example, it need not be a barrier but a marking directing the vehicles not to park in the front entrance to the station, or directing them away from the same;

6. That the Court should amend judgment, and allow for a summary judgment motion in the 3rd case in this matter to go forward in order to avoid risk of inconsistent decisions on the identical matter of fact and law.

D. UNDULY GENEROUS INTERPRETATIONS OF EXEMPTIONS RUN RISK OF DEFEATING CENTRAL PURPOSE OF FTCA

Although the Postal Service Reorganization Act generally "waives the immunity of the Postal Service from suit by giving it the power 'to sue and be sued in its official name,'" Postal Service v. Flamingo Industries (USA) Ltd, 540 U. S. 736, 741 (2004), the statute also provides that the FTCA "shall apply *to tort* claims arising out of activities of the Postal Service," (39 U. S. C. § 409 (c)), Dolan v. Postal Service, 546 U. S. 481, 484 (2006).

The FTCA authorizes private tort actions against the United States "under circumstances where the United States, if a private person, would be liable to the claimant in accordance with the law of the place where the act *or* omission occurred." 28 U. S. C. § 1346 (b)(1). United States v. Olson, 546 U. S. 43, 44 (2005).

FTCA, however, qualifies its waiver of sovereign immunity for thirteen (13) categories of claims, which are set forth in 28 U. S. C. § 2680(a) thru (f) and (h) thru (n).

However, the *Dolan* Court reasons that the general rule that a sovereign immunity waiver "will be strictly construed...in favor of the sovereign, "Lane v. Pena, Sec. of Transportation, 518 U. S. 187, 192 (1996), is unhelpful in the FTCA context, where "unduly generous interpretations of the exemptions run the risk of defeating" the central purpose of the statute, Kosak v. United States, 465 U. S. 848, 853, n.9, which waives the Government immunity from suit in sweeping language." United States v. Yellow Cab Co., 340 U. S. 543, 548 n.5 (1951). Dolan, supra, at 546 U. S. 481, 491-492.

E. FTCA WAIVES IMMUNITY FROM LIABILITY FOR INJURIES FROM AUTO ACCIDENTS WHEN POSTAL SYSTEM EMPLOYEES ARE AT FAULT

Moreover, Congress was most concerned to authorize FTCA liability for injuries resulting from auto accidents in which employees of the Postal System were at fault:

> One of the principal purposes of FTCA was to waive the Government's immunity from liability for injuries resulting from auto accidents in which employees of the Postal System were at fault. In order to ensure that § 2680(b), which governs torts committed by mailmen, did not have the effect of barring precisely the sort of suit that Congress was most concerned to authorize, the draftsmen of the provision carefully delineated the types of misconduct for which the Government was not assuming financial responsibility - - namely, 'the loss, miscarriage, or negligent transmission of letters or postal matter - - thereby excluding, by implication, negligent handling of motor vehicles." Dolan, supra at 546 U. S. 488 citing Kosak at 465 U. S. 855.

See, also, Raila v. United States, 2d Circuit Dkt. No. 03-6057, January 14, 2004, slip. op. at 7. H. R. Rep. No. 77-2245, at 10 (1942)

Thus, the exceptions are not intended to exclude such common-law torts as an automobile collision caused by the negligence of a government employee.

F. DISCRETIONARY FUNCTION EXCEPTION

The Defendant submits that the complaints should be dismissed under Rule 12(b)(1) for lack of jurisdiction over the subject matter, arguing that the United States is immune from suit under the discretionary function exception in 28 U. S. C. § 2680(a), which provides that the provisions of 28 U. S. C. § § 2679 and 1346 do not apply to:

> (a) Any claim based upon an act or omission of an employee of the Government, exercising due care, in the execution of a statute or regulation, whether or not such statute or regulation be valid, or based upon the exercise or performance or the failure to exercise or perform a discretionary function or duty on the part of a federal agency or an employee of the Government, whether or not the discretion involved be abused. 07-Civ. 1304, pg. 3-8; 07-Civ.-1378, pg. 3-8.

G. SUBJECT MATTER JURISDICTION

In this case the district courts below have found lack of subject matter jurisdiction. Federal Courts are courts of limited jurisdiction. Bender v. Williams Area School District, 475 U. S. 534, 541 (1986). The standard of review for determinations regarding subject matter jurisdiction is clear error for factual findings, and de novo for the legal conclusion as to whether subject matter jurisdiction exists. Filetech, S.A. v. France Telecom, S.A., 157 F.3d 922, 930 (2d Cir. 1998). Gambale v. Deutsche, AG, 377 F. 3d 133, 139 (2d Cir. 2004)

Plaintiffs both adequately alleged claims under FTCA based on USPS' failure in their responsibility, that its customers not suffer damages for lack of safety and to foresee as well as to avoid injury and damages from occurring in the premises was not policy driven, and is therefore not protected by the discretionary function exception.

Petitioners submitted the USPS has not carried its burden of proving that the 28 U. S. C. § 2680(a) applies.

The district court must accept the factual allegations in the complaint as true and draw inferences from those allegations in the light most favorable to the plaintiff. Albright v. Oliver, 510 U. S. 266, 268, 114 S. Ct. 807, 810, 127 L. Ed. 2d (1994). The court may not dismiss a complaint unless "it appears beyond doubt, even when the complaint is liberally construed, that the plaintiff can prove no set of facts which would entitle him to relief." Hover v. Ronwin, 466 U. S. 558, 587, 104 S. Ct. 1989, 2005, 80 L. Ed. 2d 590 (1984).

H. REVIEW OF FIRST CIRCUIT COURT OF APPEALS DECISION

1. APPELLANTS ARGUMENT

To both district courts' findings bellow plaintiffs replied: "[b]ut what the plaintiff/appellant alleges is that USPS allowed the facilities in question in a condition that lacked "the most elemental means" to protect its customers and the public from being injured by cars maneuver

ing in the area immediate to the inside of the postal station.

See, Revised Brief on Appeal for each plaintiff, at pg. 4.

Moreover, the summary of the Argument in each Appellant's Revised Brief, at pg. 9, is defined as follows:

"Neither the USPS decision to place the handicapped parking spaces in the front of the front doors, nor the failure since then to place the same at the sides and leave the spaces in front of the doors free of vehicles, is the kind of judgment that the 'discretionary function' was designed to shield."

2. USPS ARGUMENT

USPS summarized its argument as follows:

"The FTCA discretionary function exception protects the United States' sovereign immunity from liability in tort lawsuits for the results of its employees' decisions if the decisions were 1) subject to judgment or choice and not in violation of a mandatory and specific regulation, and 2) susceptible to policy analysis, regardless of whether such analysis was subjectively applied to the instant situation. In such instances, the question of negligence is irrelevant since it is the existence of the employees' discretion that is protected, even if that discretion was abused."

3. FIRST CIRCUIT DECISION

The First Circuit posed the claims as such:

Each plaintiff alleges that the Postal Service was guilty of negligence in designing and maintaining the premises of the Boqueron post office without "the most elemental means to protect the areas inside its facility used by the public to transact their business ... from intrusion and injury" by vehicles using the immediately adjacent parking areas. In their appellate briefs, the plaintiffs flesh out this allegation. They say, in essence, that The Postal Service negligently designed the parking lot and entrance to the post office, and that the plaintiffs' injuries could have been avoided if the Postal Service had placed some sort of curb or barrier in front of the building's entrance or had marked the parking spaces differently.

> "It is possible to characterize these plaints either as claims for improper design or as claims for negligent failure to furnish a safe place within which postal patrons could transact their wanted business. For present purposes, choosing between these labels would be a pointless exercise; the applicability of the discretionary function exception turns not on the nature and quality of the harm-producing conduct, not on the plaintiffs' characterization of that conduct."

See, Addendum, pgs. 10-21 Opinion; Judgment, Addendum pg. 22.

In Cope v. Scott, 45 F. 3d 445, the D. C. Circuit had occasion to determine, under Berkovitz v. United States, 486 U. S. 531 (1988), once the government has established that the challenged conduct involves an element of judgment or choice, whether that "judgment" is of the nature and quality that Congress intended to shield from tort liability:

> This brings us to the second step of the test, where the "basic inquiry" is whether the challenged discretionary acts of a government employee "are of the nature and quality that Congress intended to shield from tort liability." Varig, 467 U. S. at 813, 104 S. Ct. at 2764. Decisions that require choice are exempt from suit under the FTCA only if they are "susceptible to policy judgment" and involve an exercise of "political, social, [or] economic judgment." Gaubert, 499 U. S. at 325, 111 S. Ct. at 1275; Varig, 467 U. S. at 820, 104 S. Ct. at 2768; see Berkovitz, 486 U. S. at 537, 108 S. Ct. at 1959 (focusing the analysis on whether a decision is "based on consideration of public policy"). The Court recognized in Gaubert, for example, that daily decisions regarding the management of a troubled savings and loan "implicate[d] social, economic, or political policies," and were therefore exempt. Gaubert, 499 U. S. at 332, 111 S. Ct. at 1278. In contrast, the Court noted that a government employee may cause an automobile accident through the exercise of poor discretion, but that this type of "garden-variety" discretion is not protected. See id., 499 U. S. at 325 n.7, 111 S. Ct. at 1275 n.7. Only discretionary actions of greater significance–those grounded in "social, economic, or political goals"–fall within the protection of the statute. See Gaubert, 499 U. S. at 323, 111 S. Ct. at 1273.

Cope v. Scott, 45 F. 3d at 448.

In the instant case the plaintiffs proffered the corrective action that the USPS decision should have placed the parking spaces at the sides instead of in the front of the front entrance doors, and leave the spaces in front of the doors free of vehicles. The same would have required postings and parking markers to direct the cars away from the front entrance doors. At 45 F. 3d 452 the Cope court found that the discretion regarding where and what type of signs to post is not the kind of discretion protected by the discretionary function exception.

> "In contrast to our decision regarding the road surface, however, we find that the discretion regarding where and what type of signs to post is not the kind of discretion protected by the discretionary function exception. While it may be true, as the government claims, that the placement of signs involves judgments because engineering and aesthetic concerns determine where they are "fraught with public policy considerations" do they fall within the exception, and we do not think that is the case here. The "engineering judgment" the government relies on is no more a matter of policy than were the "objective scientific principles" that the Berkovitz court distinguished from exempt exercises of policy judgment. See 486 U. S. at 545, 108 S. Ct. at 1963."

I. REASONS FOR GRANTING PETITION

1. Poor judgment in placing parking spaces in front of front entrance to postal station which resulted in auto accident that caused injury to post office customers is not kind of choice or judgment which discretionary function exception to FTCA was designed to shield.

2. The government's waiver of immunity for injuries resulting from auto accidents in which Postal System is at fault excludes application of discretionary function exception, at initial or pleading phase of litigation.

3. A feckless standard for choice or judgment, will lead to the defeat of the central purpose of FTCA, which is to waive Government immunity from suit in sweeping language.

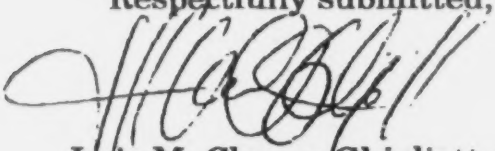
4. Whether allegation of auto accident in which postal system is at fault mandates a trial on the merits.

Thus there are important reasons for this Court to resolve the questions which emerge in the reasons for granting petition in the instant case.

J. CONCLUSION

The petition for writ of certiorari should be granted.

Respectfully submitted,

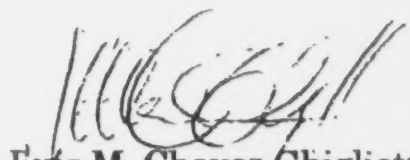


Luis M. Chaves Ghigliotty
Attorney for Petitioners
23 Ruiz Belvis
P. O. Box 630
Cabo Rojo, Puerto Rico 00623
Tel: (787) 255-6874
Fax: (787) 851-0788
E-mail: lmchaves@prtc.net
Counsel for Petitioners

October 16, 2009

CERTIFICATE OF COMPLIANCE

I hereby certify that the foregoing Petition for Writ of Certiorari contains 4,444 words and has been prepared in 12-point proportionately-spaced Century Schoolbook type in WordPerfect 9.



Luis M. Chaves Ghigliotty

October 16, 2009